

APPENDIX — OPINION OF THE UNITED STATES PATENT AND TRADEMARK OFFICE DATED JULY 11, 2007

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

THOMAS A. MILLER
and DARREL C. PINKSTON

Junior Party
(Patent No. 5,865,232)[1]

v.

ROBERT D. BRAND

Senior Party
(Application 09/377,120)[2]

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1. Based on Application 08/813,669, filed March 7, 1997. The real party in interest is Miller Veneers, Inc. Accorded the benefit of Provisional Application 60/013035, filed March 8, 1996.

2. Filed August 19, 1999. The real party in interest is Indiana Forge, LLC. Accorded the benefit of Application 09/245,954, filed February 5, 1999; Application 08/752,800, filed November 20, 1996; Application 08/685,207, filed July 23, 1996; and Application 08/455,479, filed May 31, 1995.

Patent Interference No. 105,215

Before MARTIN, LEE and MOORE, *Administrative Patent Judge.*

LEE, *Administrative Patent Judge.*

Judgment — Bd. R. 127

On August 25, 2005, we entered judgment as to the subject matter of the count against senior party ROBERT D. BRAND, and held that senior party ROBERT D. BRAND was not entitled to claim 38 of its involved Application 09/377,120.

The senior party appealed the judgment to the Court of Appeals for the Federal Circuit.

On May 14, 2007, the Court of Appeals for the Federal Circuit reversed and ordered that judgment be entered for senior party ROBERT D. BRAND.

Accordingly, it is

ORDERED that judgment on priority as to the subject matter of Count 1 is herein entered in favor of senior party ROBERT D. BRAND, and against junior party THOMAS A. MILLER and DARREL C. PINKSTON;

FURTHER ORDERED that junior party THOMAS A. MILLER and DARREL C. PINKSTON is not entitled to claim I of its involved Patent No. 5,865,232, and that senior party ROBERT D. BRAND, on this record, is entitled to claim 38 of its involved Application 09/377,120;

FURTHER ORDERED that if there is a settlement agreement, the parties should note the requirements of 35 U.S.C. § 135(c) and Bd. Rule 205; and

FURTHER ORDERED that a copy of this judgment be placed in the respective involved application or patent of the parties.

/s/ John C. Martin
JOHN C. MARTIN
Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
INTERFERENCES

/s/ Jameson Lee
JAMESON LEE
Administrative Patent Judge

/s/ James T. Moore
JAMES T. MOORE
Administrative Patent Judge